



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,557	10/11/2005	Peter Westphal	3081.126US01	8968
24113 7590 05/02/2008 PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A. 4800 IDS CENTER 80 SOUTH 8TH STREET MINNEAPOLIS, MN 55402-2100				
EXAMINER				
CHAPEL, DEREK S				
ART UNIT		PAPER NUMBER		
2872				
MAIL DATE		DELIVERY MODE		
05/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,557

Applicant(s)

WESTPHAL ET AL.

Examiner

DEREK S. CHAPEL

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/11/2008 & 10/11/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 29-62 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status Of Claims

1. This Office Action is in response to an amendment received 4/11/2008 in which Applicant lists claims 1-28 as being cancelled and claims 29-62 as being new. It is noted by the examiner that the claims labeled as "New" submitted 10/11/2005 were numbered incorrectly as 28-61 and should have been numbered 29-62. Those claims were resubmitted on 4/11/2008 properly numbered 29-62. However, in the amendment submitted 4/11/2008, claims 29-61 should have been labeled "Previously Presented" and claim 62 should have been labeled as "New", therefore the claims have been treated as being labeled as such.

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 30-34 and 36, drawn to specifics of the microscope arrangement, wherein the homogenization unit comprises a fiber-optic waveguide.

Group II, claim(s) 35, drawn to specifics of the microscope arrangement, wherein the homogenization unit comprises first and second optical components including micro-cylinder lenses arranged in sequence in the illumination beam path, wherein the axes of the micro-cylinder lenses on the first and second components are oriented to be substantially perpendicular to an optical axis of the illumination beam path; and wherein

Art Unit: 2872

the axes of the micro-cylinder lenses of the first component are at substantially right angles to the longitudinal direction of the micro-cylinder lenses of the second component.

Group III, claim(s) 38, drawn to specifics of the microscope arrangement, wherein the optically active surface of a field aperture is structured to be a strip pattern or a chessboard pattern.

Group IV, claim(s) 39, drawn to specifics of the microscope arrangement, wherein a controllable shutter for darkening selected surface sections of the field aperture is disposed in front of the field aperture.

Group V, claim(s) 40-44 and 46-50, drawn to specifics of the microscope arrangement, further comprising a partially permeable diversion mirror, spectral filters and a color splitter.

Group VI, claim(s) 45, drawn to specifics of the microscope arrangement, wherein a fraction of the illumination light passing through the partially transparent diversion mirror is directed onto a monitor detector.

Group VII, claim(s) 51, drawn to specifics of the microscope arrangement, wherein a grayscale filter pivots in the illumination beam path against an optical axis of said illumination beam path, wherein a planar normal on an incident light surface of the grayscale filter and the optical axis of the illumination beam path make an angle in the range of about 5° to about 15°.

Group VIII, claim(s) 52, drawn to specifics of the microscope arrangement, wherein the illumination source is connected to the remaining components of the microscope arrangement by a detachable mechanical connection.

Group VIX, claim(s) 53, drawn to specifics of the microscope arrangement, wherein the lens is arranged to be displaceable on a slide bar substantially parallel to its optical axis and is coupled with a motor-driven adjustment device.

Group X, claim(s) 54-55, drawn to specifics of the microscope arrangement, wherein the lens and at least one other lens, which differs from the first lens with respect to its optical properties, are disposed on a changing device.

Group XI, claim(s) 56, drawn to specifics of the microscope arrangement, wherein an autofocus device is provided that comprises an autofocus laser, an autofocus sensor and an autofocus actuating mechanism, and an autofocus laser beam bundler in the illumination beam path.

Art Unit: 2872

Group XII, claim(s) 57, drawn to specifics of the microscope arrangement, wherein the camera comprises a CCD or CMOS camera.

Group XIII, claim(s) 58, drawn to specifics of the microscope arrangement, wherein the optical axis of the lens is oriented to be perpendicular to the direction of gravity.

Group XIV, claim(s) 59-62, drawn to specifics of the microscope arrangement, further comprising a sample table adjustable in the coordinate X and Y directions.

3. Claim 29 links Groups I-XIV. Claim 37 will be examined along with the elected invention only if one of Groups III, IV or V is elected.

4. The inventions listed as Groups I-XIV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Claim 29 is anticipated by or obvious over Yoo et al., U.S. Patent Number 5,920,425 (of record). Consequently, the special technical feature which links claims 29-62 does not provide a contribution over the prior art, so unity of invention is lacking.

For each of Groups I-XIV, each of the listed groups has special technical features not required for the other group. The special technical features exclusive to each group are listed above in the listing of the groups.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. A telephone call was made to Douglas Christensen (35,480) on 4/18/2008 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEREK S. CHAPEL whose telephone number is (571)272-8042. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on 571-272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2872

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. S. C./
Examiner, Art Unit 2872
4/18/2008

/Stephone B. Allen/
Supervisory Patent Examiner
Art Unit 2872